IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 20656 of 2007(H)

AGAINST THE ORDER IN IA 2235/2005 IN
OS.212/1998 of I ADDL.M.C.,NEYYATTINKARA

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PETITIONER:

ISREL STEPHEN @ STEPHENSON,
RESIDING AT PANDARAVILA PUTHEN VEEDU,
MUKUNDARA DESOM, KALLIKKADU VILLAGE,
NEYYATTINKARA.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS:

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1. SNEHAPPU MERCY LOWRANCE,
MANCHADIVILA VEEDU, MUKKOLAKKAL, KARIPPURU,
NEDUMANGAD.

2. ISREL NELSON,
RESIDING AT LATHIKAVILASAM, MILAKKARA,
MUKINDARA DESOM, KALLIKKADU VILLAGE,
NEYYATTINKARA.

3. ISREL WILSON,
RESIDING AT GRACE COTTEGE, VATTIYOORKAVU,
PUTHICHAKONAM, RANDAMADA, THIRUVANANTHAPURAM.

4. ROBINSON,
-DO- -DO-

5. BENSON,
-DO- -DO-

6. DENNISON,
-DO- -DO-

7. LILLY STELLA,
ST. MARY VILLA, NEAR POLICE CIRCLE OFFICE,
KATTAKKADA.

8. MANASS RADHA,
MYLAKKARA PANDARAVILA PUTHEN VEEDU,
MUKUNTHARA, KALLIKKADU.

9. SMITHA, D/O. RADHA, D/O. LATE ISREL
JOHNSON, RESIDING AT MYLAKKARA,
PANDARAVILA PUTHEN VEEDU, KUNDARA DESOM,
KALLIKKADU, NEYYATTINKARA.

10. SAJITH JOHN,
-DO- -DO-

11. SUJITHA, D/O. RADHA,
-DO- -DO-

12. RAJI SAROJAM GLADIES,
GRACE COTTAGE, KANJIRAMPARA, PUTHICHAKONAM,
PEROORKADA, THIRUVANANTHAPURAM.

13. SUMANGALA LEELA KUMARI,
RESIDING AT MYLAKKARA LATHIKA VILASOM,
MUKUNDARA DESOM, KALLIKKADU, NEYYATTINKARA.

14. LEELAKUMARY JIBI,
-DO- -DO-

15. KUMARAN BOBAN,
-DO- -DO-

16. DANAM DHARMADAS,
-DO- -DO-

17. SUMANGALA LALTHIKAKUMARY,
-DO- -DO-

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.20656 OF 2007

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Dated this the 5th day of July, 2007

JUDGMENT

This writ petition is preferred challenging the order of the I Addl.Munsiff' Court, Neyyattinkara in I.A.No.2235/2005 in O.S.No.212 of 1998. The suit is one for partition. As per the original plaint schedule the property sought to be partitioned as per item No.4 is 1 acre 49 cents situated on the eastern side of 4 acres 85 cents of land. A preliminary decree was passed and I am informed that an appeal preferred against the preliminary decree has been disposed of by the appellate court. The grievance of the petitioner herein is that no opportunity was given to him and the court simply recorded no objections and allowed the amendment application casually. There is some force in the said contention. As per the original of the plaint there is a specific description that 1 acre 49 cents of land situated on the eastern side of 4 acres 85 cents is to be partitioned. By incorporating an amendment they want to delete 1 acre 49 cents and make 4 acres 85 cents available for division. That cannot be taken light heartedly unless the court is convinced that it is a bona fide mistake and the materials available

that the intention of the party was to effect division of 4 acres 85 cents. Therefore the order under challenge is set aside and the matter is remitted back to the I Addl.Munsiff's Court, Neyyattinkara for fresh consideration after affording an opportunity to both sides and especially permitting the present writ petitioner to file a counter petition and dispose it of in accordance with law.

Writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

Cdp/-